IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.06 OF 2006

Shri Vithal T.Chamankar & Anr. ...Petitioners

Versus

Shri Anand Ramchandra Kudalkar ...Respondent

Shri M.D.Parab for the Petitioners.

CORAM : S.C. DHARMADHIKARI, J.
DATE : JANUARY 10, 2006.

P.C.:

1. Heard learned Counsel appearing for the petitioners.

2. The order under challenge is passed by the Executing Court on an application made by the petitioner-judgment debtor. The application proceeds on the basis that an amount of Rs.70,000/- was deposited by the judgment-debtor in the trial Court on 8th April, 1996 and, therefore, if the said amount is invested it would fetch interest and from the said sum the entire decree could be marked satisfied. However, the trial Court after perusing the record concluded that the amount of Rs.70,000/- was not deposited on 8th April, 1996, but, on 24th March, 2003. Therefore, even if any interest thereon is taken into consideration there is a shortfall and which will have

to be made good by the judgment-debtor in execution of the decree passed in favour of the respondent-decree holder. The only submission made by the learned Counsel appearing for the petitioner in support of this petition is that from the register of deposit-receipts maintained in the Civil Court at Vengurla, it would be clear that the amount was deposited earlier and not as observed by the trial Court. In my view, even that aspect does not assist the petitioners, because the endorsement on the extract is of 23rd September, 2002. Thus, the contention that the amount was deposited on 8th April, 1996 has not been substantiated and, therefore, the application of the petitioners stands dismissed rightly. Hence, no interference under Article 227 of the Constitution of India is necessary with the order of the Executing Court dismissing the objections of the petitioners. Petition dismissed.

(S.C.DHARMADHIKARI,J.)